

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claim 1 is currently being amended.

Claim 5 is being added.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-5 (5 claims) are now pending in this application.

The Office Action of May 5, 2005 and the references cited therein have been considered. In response to the rejections to the claims, the Applicants have amended claims 1 and 2, added claim 5, and provide the following comments. As demonstrated, however, each of the rejections is believed overcome, with the application being placed in condition for allowance. Accordingly, reconsideration and allowance of this application is respectfully requested.

On page 2, paragraph 3 of the Office Action, the Examiner has rejected claims 1-4 under 35 U.S.C. § 102(b) as being anticipated by Garrabrant, et al (USPN: 5,610,595). The Examiner has identified various features of Garrabrant utilizing terminology of the present application in an attempt to show that Garrabrant anticipates that which is disclosed and claimed in the present application. Applicants respectfully traverse such characterization by the Examiner.

Garrabrant relates to a packet radio communication protocol that uses a sequence index indicating the sequence in which a message is composed at the source station and utilizing that sequence index for message integrity. (See col. 3, lines 17-18.) As best

understood by the Applicants, Garrabrant marks each message transmitted with a sequence number field 92 (See Col. 9, l. 5-8).

In response, Applicants have amended claims 1 and 2 to specifically state that a message is marked only if it is already being transmitted for at least a second time. In contrast to Garrabrant, the present application discloses and now claims a method that marks a message only if it is the second time it is being transmitted. In other words, the first transmitted message is not marked, if that same message is transmitted a second time it is marked and it is the second marked message that is ignored by the receiver if it is recognized as the message as having been sent once before or if it interprets it as a new message. See paragraphs 12 and 17 of the substitute specification. In Garrabrant, since each message is sequentially indexed, it is an out-of-sequence message that is discarded or rejected by the receiver.

There is no teaching or suggestion in Garrabrant that the initial message is not marked upon the first transmission but is marked upon a second or subsequent transmission as disclosed and claimed in the present application. Garrabrant marks each message with a sequence number field 92.

On page 3, paragraphs 6, 7 and 8 of the Office Action, the Examiner utilizes the language of the present application's claims 2, 3 and 4 respectively, as the Examiner did with claim 1, to cite language in Garrabrant to anticipate that which is disclosed and claimed in the present application. As stated above, since each of claims 2 (as amended), 3 and 4 of the present application also require the marking of the message upon at least a second transmission, Applicants' comments with respect to Garrabrant are also applicable to claims 2-4.

Accordingly, Applicants submit that Garrabrant does not anticipate that which is disclosed and claimed in the present application and respectfully request that the Examiner withdraw his rejection of claims 1-4 under 34 U.S.C. § 102(b).

On page 4, paragraphs 10 and 11 of the Office Action, the Examiner comments with respect to the Applicants' arguments filed on January 27, 2005. In paragraph 11 of the Office

Action the Examiner states that "the claim language does not claim or suggest to only mark a message that is transmitted for at least a second time". Applicants submit that the amendments to claims 1 and 2 and new claim 5 specifically state that the message is only marked if it is transmitted for at least a second time. Support for the amendment and the new claim can be found in paragraphs 0002, 0012, 0017, and 0018 of the substitute specification previously filed. No new matter has been added to the specification. Accordingly, Applicants submit that Garrabrant does not read on the claim language as amended.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. § 1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1447.

Respectfully submitted,

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